

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

EXPRESS MAIL NO.: EL244180880US

IN RE APPLICATION OF: GAMBINI et al.

INTERNATIONAL APPLICATION NO.: PCT/US99/11088

US SERIAL NO.: 09/700,536

EXAMINER: Boris Milef

TITLE: INSTRUMENT FOR MONITORING POLYMERASE CHAIN REACTION
OF DNA

ATTORNEY DOCKET NO.: 715-009111-US(PCT)

The Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231
Attention: PCT Legal Office

RECEIVED

10 AUG 2001

Legal Staff
International Division

RENEWED REQUEST UNDER 37 C.F.R. 1.42

Dear Examiner Milef:

In response to the "Decision on Papers Under 37 CFR 1.42" dated May 2, 2001, enclosed herewith are newly executed "Combined Declaration and Power of Attorney" documents for this application regarding the applicants Atwood and Atwood-Stone. In compliance with 37 C.F.R. 1.497(b)(2), the newly executed documents indicate that Ms. Susan Atwood Stone and Mrs. Judith K. Atwood are each a "Co-Executrix" empowered to act in representing the estate of the deceased inventor John Atwood. The newly executed documents also contain the last residence and post office address of John Atwood.

Regarding the citizenship of John Atwood (not specifically mentioned in 37 C.F.R. 1.497(b)(2)) we enclose a copy of the first page of PCT International Publication No. WO 99/60381 (International Application No.: PCT/US99/11088) wherein the US citizenship of Mr. Atwood was established.

Applicants' petition for one-month extension of time required for submission of these papers, a check for \$110.00, in accordance with 37 CFR 1.136(a) is enclosed. However please charge any additional fees to deposit account 16-1350.

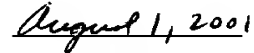
It is respectfully requested that a filing receipt be issued and the application be examined in turn.

Respectfully submitted,



Dave Aker, Reg. No.: 29,277

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Date

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IN THE UNITED STATES ELECTED OFFICE (EO/US)



REGARDING THE INTERNATIONAL
APPLICATION OF:

DOCKET OR REFERENCE NUMBER:

PCT/US99/11088

(US Serial No.: 09/700,536)

715-009111-US(PCT)

ENTITLED:

INSTRUMENT FOR MONITORING POLYMERASE CHAIN REACTION OF DNA

Assistant Commissioner for Patents
Washington, D.C. 20231
Attention: PCT Legal Office

BOX PCT

INTERNATIONAL STAGE EXPRESS MAIL CERTIFICATE

"Express Mail" label number: EL244180880US

Date of Deposit: August 1, 2001

I hereby certify that the following attached paper or fee

Renewed Request Under 37 CFR 1.42

Copy of Decision on Papers Under 37 CFR 1.42

Petition and check for extension fee - \$110.00

Copy of PCT Publication No. WO 99/60381

2 Combined Declaration and Power of Attorney documents

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231, Box PCT.

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10 AUG 2001

Legal Staff
International Division

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(Typed or printed name of person mailing paper or fee)

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Each paper letter or communication relating to an international application during the international stage for which a date of filing is to be obtained as of the date of mailing must have its own certificate and the "Express Mail" label number as a part thereof or attached thereto. When, as here, the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper or fee it accompanies. Identification should include the serial number and filing date of the application as well as the type of paper being filed, e.g. complete application, specification and drawings, responses to rejection or refusal, notice of appeal, etc. If the serial number of the application is not known, the identification should include at least the name of the inventors (s) and the title of the invention.

The label number need not be placed on each page. It should, however, be placed on the first page of each separate document, such as, a new application, amendment, assignment, and transmittal letter or a fee, along with the certificate of mailing by "Express Mail". Although the label number may be on checks, such a practice is not required. In order not to deface formal drawings it is suggested that the label number be placed on the back of each formal drawing or the drawings be accompanied by a set of informal drawings on which the label number is place.

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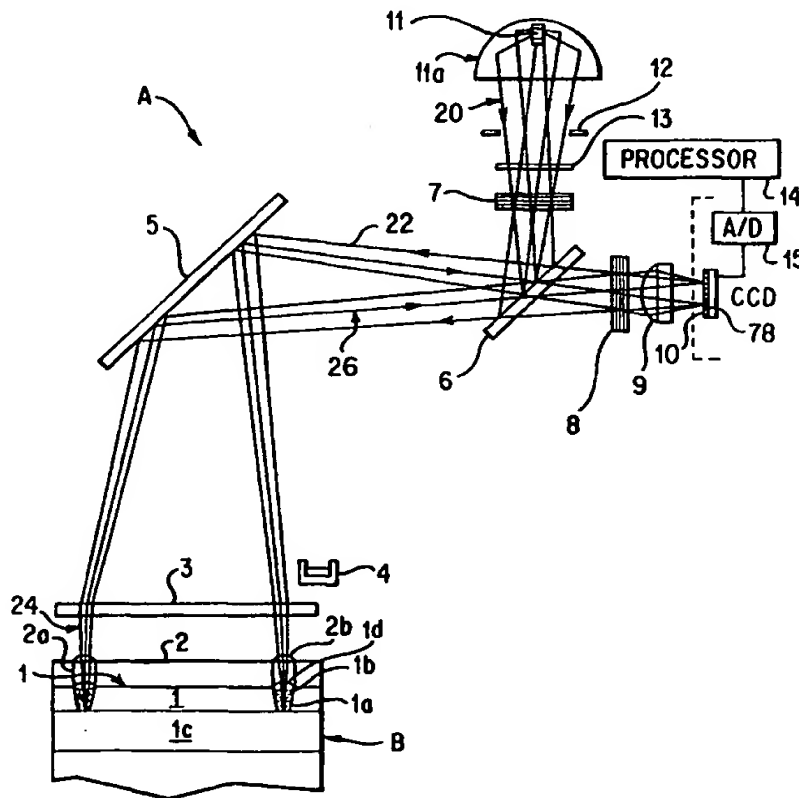
INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

(51) International Patent Classification ⁶ : G01N 21/25, C12Q 1/68		A1	(11) International Publication Number: WO 99/60381
			(43) International Publication Date: 25 November 1999 (25.11.99)
(21) International Application Number: PCT/US99/11088		(81) Designated States: AU, CA, CN, JP, US, European patent (AT, BE, CH, CY, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE).	
(22) International Filing Date: 17 May 1999 (17.05.99)			
(30) Priority Data: 60/085,765 16 May 1998 (16.05.98) US 60/092,784 14 July 1998 (14.07.98) US		Published With international search report. Before the expiration of the time limit for amending the claims and to be republished in the event of the receipt of amendments.	
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(74) Agent: AKER, David; The Perkin-Elmer Corporation, 850 Lincoln Centre Drive, Foster City, CA 94404 (US).			

(54) Title: INSTRUMENT FOR MONITORING POLYMERASE CHAIN REACTION OF DNA

(57) Abstract

An optical instrument monitors PCR replication of DNA in a reaction apparatus having a temperature cycled block with vials of reaction ingredients including dye that fluoresces in presence of double-stranded DNA. A beam splitter passes an excitation beam to the vials to fluoresce the dye. An emission beam from the dye is passed by the beam splitter to a CCD detector from which a processor computes DNA concentration. A reference strip with a plurality of reference emitters emit reference beams of different intensity, from which the processor selects an optimum emitter for compensating for drift. Exposure time is automatically adjusted for keeping within optimum dynamic ranges of the CCD and processor. A module of the beam splitter and associated optical filters is associated with selected dye, and is replaceable for different dyes.





MAY 02 2001

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In re Application of
Gambini et al.
Application No. 09/700536
PCT No.: PCT/US99/11088
Priority Date: 17 May 1999
Int. Filing Date: 16 May 1998
For: Instrument for Monitoring
Polymerase Chain Reaction
of DNA

DECISION ON

PAPERS UNDER

37 CFR 1.42

This is a decision on the papers filed on 15 November 2000, which are being considered under 37 CFR 1.42.

BACKGROUND

This international application was filed on 17 May 1999, and claimed an earliest priority date of 16 May 1998. A Demand electing the United States was filed on 15 December 1999, which was prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired as of midnight on 16 November 2000.

On 15 November 2000, applicants filed a Transmittal Letter for entry into the national stage in the United States. The Transmittal Letter was accompanied by, *inter alia*, the required basic national fee, a "Fiduciary's probate Certificate" and a declaration of the inventors signed by Susan Atwood-Stone on behalf of deceased inventor John Atwood.

DISCUSSION

The declaration filed on 15 November 2000 is not in compliance with 37 CFR 1.42 because it is not clear from the evidence of record that Susan Atwood-Stone is empowered to act alone in representing the estate of deceased inventor John Atwood. Rather, the Fiduciary's probate Certificate names Judith Atwood and Susan Atwood-

Stone as "Co-Executors," which implies that the signatures of both are required. Moreover, the declaration is also deficient in that it does not identify the last residence, post office address and citizenship of John Atwood. Accordingly, it would be inappropriate to accord the application status under 37 CFR 1.42 on the basis of the present record.

CONCLUSION

The request is **DISMISSED**, without prejudice.

If reconsideration on the merits of this request is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



 Boris Milef
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